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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte HANS-PETER BRAUN*

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Appeal No. 2008-1490  
Application No. 10/782,834  
Technology Center 3700

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Decided: July 23, 2008

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Before WILLIAM F. PATE, III, HUBERT C. LORIN and JOHN C. KERINS,  
*Administrative Patent Judges.*

PATE, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal from the Examiner's refusal to allow claims 4-10 as amended after final rejection. These are the only claims in the application. We have jurisdiction under 35 U.S.C. §§ 134 and 6(b) (2002).

The claimed subject matter is directed to a fuel supply pump and a means for mounting the fuel supply pump in an automotive fuel tank.

Claim 4, reproduced below, is further illustrative of the claimed subject matter.

4. In a device for supplying fuel from a tank to an internal combustion engine, including a fuel-supply pump having an outlet fitting and being fastened by means of a mount, the improvement wherein the mount (27) is embodied as a rigid conduit having a first fuel supply line section (8.1) connected to the outlet fitting (21) of the fuel-supply pump (3), wherein the mount (27) comprises a mount fitting (28) with a mount conduit (25) that feeds with a connection opening (31) into the first fuel supply line section (8.1), and wherein the outlet fitting (21) of the fuel-supply pump (3) is inserted into the mount conduit (25) and extends through a mounting element (41) provided in the connection opening (31).

The references of record relied upon by the Examiner as evidence of obviousness are:

Ingram	US 4,817,997	Apr. 4, 1989
Bacon	US 5,715,798	Feb. 10, 1998

Claims 4-10 stand rejected under 35 U.S.C. § 103 as unpatentable over Bacon in view of Ingram.

#### OPINION

We have carefully reviewed the rejection on appeal in light of the arguments of the Appellant and the Examiner. As a result of this review we have reached the conclusion that the applied prior art establishes the prima facie obviousness of claims 4-10. Appellant has offered no evidence rebutting this prima facie case of obviousness. Accordingly, the rejection of all claims on appeal is affirmed. Our reasons follow.

Bacon discloses a device for supplying fuel from a tank to an internal combustion engine including a fuel supply pump 20 mounted in reservoir 22 inside fuel tank 10. (Bacon, col. 2, ll. 50-65). The mount is made of rigid plastic. (Bacon, col. 3, ll. 10-16). The mount includes first fluid supply line 36 connected to the outlet fitting of fuel pump 20, wherein the mount comprises a mount fitting

50 with a mount conduit provided by seal cap 59 having bore 72 therein. The mount fitting 50 has an opening containing mounting element 54 through which outlet fitting 29 of fuel pump 20 extends. (Bacon, col. 3, ll. 36-64). Bacon fails to show the details of any engagement between outlet fitting 29 of fuel pump 20 and mounting element 54.

Ingram has been cited to show the typical groove and mounting detent used to secure a flexible elastomeric line 13 to a sleeve member 25. We are in agreement with the Examiner that it would have been obvious to provide a detent and groove securing mechanism on the mounting element 54 of Bacon to provide a secure connection that could withstand shock and vibration.

Appellant in the Brief expresses confusion about exactly how the Examiner is reading the disclosure of Bacon with respect to the claimed subject matter. We are in agreement with the Appellant that the Examiner is reading seal 54 as the mounting element. Appellant states that in this reading of the claim, Bacon would not disclose a mount conduit as required by claim 4. Appellant further states that opening or bore 52 cannot be said to be such a conduit, because the conduit must have some linear extent. However, as shown in Appellant's Figure 3, item 25, Appellant's own disclosed mount conduit, is shown as the opening of tube 28, Appellant's mount fitting. This is similar to opening 72 of Bacon's mount fitting 50. Appellant's argument about the linear extent of the conduit is not commensurate in scope with Appellant's own disclosure.

We will also affirm the rejection of claim 9, inasmuch as the top surface of the end cap which abuts the seal bead 63 of mounting element 50 can be regarded as in the connection opening. Likewise the upper shoulder is provided at the other end of the opening at seal 61. With respect to claim 10, we agree with the Examiner that the upper shelf 57 can be regarded as a hold-down element,

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when the language of claim 10 is given its broadest reasonable interpretation as we are required to do in prosecution before the United States Patent and Trademark Office.

#### SUMMARY

For the foregoing reasons we affirm the rejection of claims 4-10 under 35 U.S.C. § 103.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

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